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Illinois Department of Public Health

NURSING HOME CARE ACT

ABUSED AND NEGLECTED
LONG-TERM CARE FACILITY
RESIDENTS REPORTING ACT



Report to the General Assembly
1996

**REPORT TO THE ILLINOIS GENERAL ASSEMBLY
by the
ILLINOIS DEPARTMENT OF PUBLIC HEALTH**

Nursing Home Care Act

The Department shall report to the General Assembly by April 1 of each year upon the performance of its inspection, survey and evaluation duties under this Act, including the number and needs of the Department personnel engaged in such activities. The report shall also describe the Department's actions in enforcement of this Act, including the number and needs of personnel so engaged. The report shall also include the number of valid and invalid complaints filed with the Department within the last calendar year. [210 ILCS 45]

**Abused and Neglected Long-Term Care Facility
Residents Reporting Act**

The Department shall report annually to the General Assembly on the incidence of abuse and neglect of long-term care facility residents, with special attention to residents who are mentally disabled. The report shall include but not be limited to data on the number and source of reports of suspected abuse or neglect filed under this Act, the nature of any injuries to residents and the final disposition of cases. [210 ILCS 30]

JANUARY 1, 1996, THROUGH DECEMBER 31, 1996



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Illinois Department of
Public
Health

Jim Edgar, Governor • John R. Lumpkin, M.D., M.P.H., Director

525-535 West Jefferson Street • Springfield, Illinois 62761-0001

June 1997

Dear Members of the General Assembly and Other Interested Persons:

Section 3-804 of the Nursing Home Care Act and Section 4161-6 of the Abused and Neglected Long-Term Care Facility Residents Reporting Act require the Illinois Department of Public Health to report annually on actions taken under the authority of these Acts.

The primary enforcement mechanism for the Department's long-term care regulatory activities continues to be Medicare and Medicaid certification, under federal enforcement regulations promulgated pursuant to Titles XVIII and XIX of the Social Security Act that became effective July 1, 1995. The Department's increase in work load remains an issue of concern. The enforcement regulations established intermediate sanctions for noncompliance with specific federal regulations. In the past, decertification activities were pursued only in regard to facilities with a history of noncompliance with a significant portion of the federal regulations. Revisit surveys, package review time, informal dispute resolution requests and administrative hearing requests have all increased as a result of the new penalties, which include imposed plans of correction and in-service training, denial of payment, state monitoring, and monetary penalties. The Department's work load has increased at the same time that the number of staff has decreased.

Thank you for your interest in Illinois' long-term care facilities and their residents. I encourage you, as a legislator or a member of the public, to gather as much information as you need to allow informed decisions concerning long-term care facilities. In this way, residents of long-term care facilities will continue to be the important members of our families, the community and society that they should be.

Sincerely,

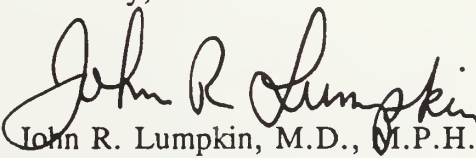

John R. Lumpkin, M.D., M.P.H.
Director of Public Health

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PART I OVERVIEW

Nursing Home or Long-Term Care Facility

The Nursing Home Care Act (NHCA, the Act) defines a facility or a long-term care facility as --

[A] private home, institution, building, residence or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for [three] or more persons, not related to the applicant or owner by blood or marriage.... (Section 1-113 of the Act)

Although "nursing home" is a common and correct phrase to describe these facilities, it may limit our thinking. Some residents do not need nursing, or nursing needs are secondary, while others need extensive nursing care. The following are some examples of persons who live in nursing homes:

A 27-year-old man is semi-comatose following an auto accident. He has a tracheostomy and needs a ventilator to breath. He requires complete personal care and highly complex nursing care. He also receives intensive occupational and physical therapy as well as emotional support and social services to assist him in attaining his highest level of functioning ability.

A 68-year-old woman is disoriented to time and place. She does not take medication but needs prompting to eat, dress, etc. She requires supervision for safety issues, such as reminders to dress warmly during cold weather or not to get lost when leaving the facility.

A 42-year-old man is mentally retarded and attends a sheltered workshop during the week. He is learning daily life activities that will enable him to live in a group home that offers minimum supervision and allows him to function at the highest level he is able to maintain.

An 18-year-old woman has severe physical and mental disabilities. Although she is basically healthy, she needs complete personal care because of physical limitations and delays in cognitive development.

A 97-year-old woman has retained all of her mental faculties, but requires extensive nursing care because of circulatory problems that have resulted from long-standing, uncontrolled diabetes.

The NHCA authorizes the Department to establish different levels of care:

- Skilled Nursing Care Facility (SNF)
- Intermediate Care Facility (ICF)
- Intermediate Care Facility for the
Developmentally Disabled (ICFDD)
- Small ICFDD Facility (16 or fewer beds)
- Long-Term Care for those Under Age 22 Facility
(22 and under)
- Sheltered Care Facility (SC)

For the purpose of this report, the phrase long-term care (LTC) facility is used generally to indicate all levels of care. Specific levels will be identified when an issue is not applicable to all levels.

The words *inspection* and *survey* are used synonymously as are *reinspection* and *follow-up*. The word *investigation* suggests a more focused approach, which evaluates only specific aspects. For instance, a complaint investigation evaluates only the specific allegations.

Size and Variety of Facilities

Long-term care facilities range in size from four to 508 beds. Some offer only one level of care, while others may provide two or more levels of care. Tables 1 and 2 describe the number of licensed facilities and beds by the level of care provided. (Facilities certified but not licensed still require inspections and investigations. There are 138 certified-only and hospital-based facilities with more than 7,045 additional beds in Illinois.)

TABLE 1
Number and Type of Licensed and/or Certified LTC Facilities

<u>Type of Facility</u>	<u>Number of Licensed and/or Certified LTC Facilities</u>		
	<u>1994</u>	<u>1995</u>	<u>1996</u>
SNF only	317	328	341
SNF/ICF	191	199	207
SNF/ICF/SC	31	29	30
SNF/SC	29	32	34
SNF/22 and Under	3	3	3
22 and Under only	11	10	10
ICF only	176	164	154
ICFDD only	37	38	38
16 or fewer bed only	248	250	255
ICF/ICFDD	4	3	3
ICF/SC	33	33	32
SC only	47	47	46
CLF	35	47	34
Hospital-based LTC Units	121	127	131
State Mental Health LTC Units	<u>11</u>	<u>11</u>	<u>11</u>
TOTAL FACILITIES	1,294	1,309	1,329

TABLE 2
Number and Type of Licensed and/or Certified LTC Facility Beds

<u>Type of Facility</u>	<u>Number of Licensed and/or Certified LTC Beds</u>		
	<u>1994</u>	<u>1995</u>	<u>1996</u>
SNF	62,340	64,274	70,243
ICF	36,585	35,671	35,557
ICFDD	7,175	7,242	11,501
22 and Under	1,157	1,109	1,117
SC	<u>7,535</u>	<u>7,680</u>	<u>8,127</u>
TOTAL BEDS	114,792	115,976	126,545

Department Structure

Within the Illinois Department of Public Health, the Office of Health Care Regulation regulates long-term care facilities. Units involved in this regulation are organized as follows:

The Bureau of Long-Term Care (BLTC) comprises two divisions -- the **Division of LTC Field Operations (FO)** and the **Division of LTC Quality Assurance (QA)**.

The **Division of LTC Field Operations** conducts approximately 1,000 surveys per month, including annual licensure surveys, complaint investigations, special off-cycle surveys, and incident report investigations and follow-up surveys pursuant to deficiencies cited during these inspections. In addition, similar surveys are conducted under the authority of Title XVIII (Medicare) and Title XIX (Medicaid) of the federal Social Security Act. These regulatory activities are commonly called certification surveys. The structure, format and time frame of certification activities are mandated and highly regulated by the federal Department of Health and Human Services (HHS) through the Health Care Financing Administration (HCFA). State licensure is mandatory under the Nursing Home Care Act, and federal certification is a voluntary program. Facility participation allows the facility to admit and provide care for clients who are eligible to have their care paid for with Medicaid or Medicare resources. Facilities providing long-term care that are located within and operated by a licensed hospital are not required to have an additional state license under the Illinois Nursing Home Care Act.

The Division of LTC Field Operations is also responsible for two other major components of the LTC program. In 1994, the administrative authority for the Medicaid reimbursement program for facilities providing care to the developmentally disabled (DD) was transferred from the Department of Public Aid to the Department of Mental Health and Developmental Disabilities. As part of this transfer of authority, responsibility for the conduct of the "Inspection of Care" (IOC) program was transferred from the Department of Public Aid to the Department of Public Health. The IOC program is a federally mandated reimbursement activity in which field reviews are conducted at DD facilities to determine if Medicaid reimbursed health care services are being carried out and to gather data necessary to establish Medicaid reimbursement rates for each participating DD facility. At the Department of Public Aid, 38 staff members were assigned to the program. Thirty of the 38 staff positions assigned to the IOC program at the Department of Public Aid were transferred to the Department of Public Health to conduct the same program.

In 1995, the technical review process for all LTC surveys was transferred from the Division of LTC Quality Assurance to the Division of LTC Field Operations. Seventeen positions were transferred along with the program.

Approximately 1,329 facilities in Illinois are regulated under the Illinois Nursing Home Care Act and/or federal certification requirements for Medicare/Medicaid participation. Of this number, 1,187 are licensed under the Nursing Home Care Act, and 142 are associated with a licensed hospital and are operated as a nursing home under the Hospital Licensing Act. A total of 1,199 (90%) of the 1,329 facilities participate in the federal

certification program for Medicare and/or Medicaid. A small central office staff in Springfield and approximately 191 surveyors headquartered in eight regional offices (Bellwood, Champaign, Chicago, Edwardsville, Marion, Peoria, Rockford, West Chicago) conduct all field survey activities for the 1,329 regulated long-term care facilities.

The **Division of LTC Quality Assurance** is responsible for the final review and processing of all surveys conducted by the Division of Field Operations. These activities are performed as prescribed by the Nursing Home Care Act. The structure, format and time frame of certification processing activities are also formalized and highly regulated by HHS. Staff architects and a mechanical/fire protection specialist review initial construction and major remodeling plans to ensure compliance with state licensure rules and the National Fire Protection Association (NFPA) Life Safety Code. Licensure and Medicare/Medicaid applications are processed by Division of Quality Assurance staff to assure compliance with the Nursing Home Care Act and federal regulations.

The **Central Complaint Registry (CCR)**, part of the Division of Health Care Regulation Public Service, operates a toll-free hotline (800-252-4343) 24 hours a day and accepts complaints about other health care facilities in addition to LTC facilities. Many persons contacting the CCR do not file a complaint but do request information or solutions to problems. These persons often are referred to the Illinois Department on Aging or to a local area substate ombudsmen. The CCR is also the central reporting location for the Abused and Neglected Long-Term Care Facility Residents Reporting Act. In addition to long-term care facilities licensed under the NHCA, mental health centers operated by the Illinois Department of Mental Health and Developmental Disabilities are required to report suspected resident abuse and neglect.

The **Education and Training Section (E & T)** coordinates training for OHCR staff, other agency staff involved in long-term care, long-term care industry representatives and the general public. Training for OHCR and other agency staff may be held to meet the requirements of HHS, introduce new procedures or technical material or review commonly used procedures. Training for industry representatives and the general public may clarify the Department's response to certain situations, introduce new procedures or technical material and provide a forum for exchanging information (see Appendix C for training in 1996). Education and Training also administers the Nurse Aide Registry, which is authorized by and operated in accordance with the NHCA and certification requirements.

The **Division of Administrative Rules and Procedures** provides staff support to the LTC Advisory Board, which was established by the Act. The Division also maintains the seven sets of administrative rules written under the authority of the Act (see Appendix D). The Division also administers the Health Care Worker Background Check Act and provides staff support to the Health Care Worker Task Force.

Both the Education and Training Section and the Division of Administrative Rules and Procedures also are involved in activities similar to those described above for other types of health care facilities and programs regulated by the Office of Health Care Regulation.

PART II PERFORMANCE OF INSPECTIONS, SURVEYS AND EVALUATION DUTIES UNDER THE ACT

Nurse Aide Training and Competency

Nursing assistants working in licensed skilled nursing facilities, intermediate care facilities, and home health agencies must be certified. Certification is achieved primarily by successfully completing a state-approved nursing assistant training program, a formal test covering 21 Illinois Department of Public Health required manual skills, and a written competency test. The basic nursing assistant training program, required manual skills and written competency became the primary avenue for certification as a home health aide in February 1996 with the adoption of changes in the Illinois Home Health Agency Code (77 Ill. Adm. Code 245). Illinois also accepts several equivalencies, with proper documentation, e.g., being on another state's nurse aide registry with no findings; student nurses; foreign nurses; and specific military medical training for approval to work as nursing assistants or home health aides. Individuals with any of the above equivalencies are required to take the written competency test, except those individuals documenting out-of-state nursing assistant approval.

All nursing assistants, including those employed by intermediate care facilities for the developmentally disabled, and home health aides must be listed on the Department's Nurse Aide Registry. Training programs for DD aides are coordinated by the Illinois Department of Mental Health and Developmental Disabilities. DD aides are not required to complete written competency testing.

In facilities where the client is 22 years of age or younger, nursing assistants are called child care/habilitation aides. Certification is achieved by successfully completing a Department-approved training program; no written competency test is required.

In 1996, 17 new basic nursing assistant training programs were approved, six child care/habilitation aide programs were approved, and 16 previously approved programs were reactivated. Twenty training programs became inactive and 251 programs received annual approval. Programs are approved and monitored in accordance with the Nursing Home Care Act and the Department's rules, titled "Long-Term Care Assistants and Aides Training Programs Code" (77 Ill. Adm. Code 395).

There are 261 active basic nursing assistant training programs in the state. The program sponsors are as follows:

Colleges	54	High Schools	35
Nursing Homes	113	Vocational Schools	38
Private Programs	5	Home Health Agency	8
Hospitals	6	State Board of Education Exempt	2

There are five active basic child care/habilitation aide training programs in the state.

Sixty-one training programs received monitoring visits in 1996. Fifty of the locations were in compliance with program requirements and 11 programs were out of compliance.

The manual skills test in the basic nursing assistant training programs must be administered by an approved evaluator who meets the requirements for instructor approval and has attended an evaluator workshop. Facility-based (in certified nursing homes) nursing assistant training programs require an approved evaluator who has no fiduciary connection with the facility. Six evaluator workshops were conducted statewide in 1996. Workshops were held on the following dates at these locations:

DATE	LOCATION	# PARTICIPANTS
May 7, 1996	Triton College	38
May 17, 1996	Lincoln Land Comm. College	43
July 25, 1996	Rend Lake College	11
September 12, 1996	Triton College	42
October 24, 1996	Lincoln Land Comm. College	33
November 21, 1996	Moraine Valley Comm. College	20

One hundred eighty-seven nurses successfully completed the workshop to become approved evaluators.

The written competency test is administered at 45 community colleges and one vocational school in the state and is coordinated by Southern Illinois University at Carbondale.

Nurse Aide Registry

Nurse aides are placed on the Illinois Nurse Aide Registry after meeting the required training and competency testing criteria, Health Care Worker Background Check Act criteria and/or other equivalency criteria.

A facility must contact the Department to verify a nurse aide's eligibility prior to employment. Verifications are made by both phone and mail. Staff has kept records, since January 1994, of the number of phone calls received.

During the week of July 15, 1996, which was a typical week, 1,105 phone calls were received and 1,465 nurse aide verifications were made (see Appendix F). Appendices G, H and I show the number of phone and written verifications; the number of nurse aides added to the Nurse Aide Registry and the number of nurse aides with findings of abuse, neglect or misappropriation of the property of a resident; and Nurse Aide Registry activities by month for 1996.

If a nurse aide is suspected of abusing, neglecting or stealing from a resident, the facility must report the allegations to the Department. Reporting is required by the Nursing Home Care Act and the Abused and Neglected Long-Term Care Facility Residents Reporting Act. In 1996, 221 nurse aides were added because of a finding of abuse, neglect or misappropriation of a resident's property.

TABLE 3
Nurse Aide Program Statistics, 1996

Active Basic Nursing Assistant Training Programs	261
Nurse Aides Registered for Competency Testing	11,889
Nurse aides tested	10,827
Nurse aides passed	10,172
Nurse aides failed	665
Nurse aides "no show"	1,062
Abuse, Neglect or Theft Findings Added to Registry	221
Abuse findings	204
Neglect findings	3
Misappropriation of property findings	13
Felony conviction	1
Nurse Aide Verifications	
Total phone verifications	67,703
Total written verifications	18,461
Health Care Worker Criminal Background Checks added to Nurse Aide Registry	23,744
Nurse Aides Added to Registry Electronically, for 1996	11,222
Habilitation Aides Added	1,857
Number of CNA Records Accessed for 1996 (Beginning March 6, 1996, the Nurse Aide Registry began tracking the number of times its database was accessed.)	97,333
Total Number of Nurse Aides on Registry as of 12/31/96	222,120

Allegations of CNA Abuse, Neglect or Misappropriation of Resident Property

The Department receives allegations of abuse, neglect or misappropriation of property committed by certified nurse aides (CNAs) through complaints, incident reports and letters. The Department receives documentation from the facility's own complaint investigation, and reviews the documentation to determine whether there is substantial evidence to process the aide in question. If so, the aide is notified by certified letter of the allegation and right to a hearing. If, after a hearing, the Department finds that the CNA abused or neglected a resident or misappropriated resident property in a facility, or if the CNA does not request a hearing, the finding of abuse, neglect or misappropriation is placed next to the CNA's name on the registry. Prospective employers who call the registry to determine the CNA's status are told of the finding. The practical effect is that the CNA will not be able to find employment with a LTC facility.

While it cannot be determined whether facilities report all allegations of CNA abuse, neglect or misappropriation of property, in general, information received or requested from facilities is complete. Most facilities have been cooperative in providing the necessary information on such cases, or providing additional information when requested. Table 4 lists the number and type of allegations for 1994, 1995 and 1996.

TABLE 4
CNA Abuse, Neglect and Misappropriation of
Resident Property Allegations
1994, 1995 and 1996

<u>Allegation Type</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
<u>Abuse (Total)</u>	533	802	665
Physical	351	510	421
Verbal	161	257	221
Sexual	21	35	23
<u>Neglect</u>	18	35	23
<u>Misappropriation of property</u>	18	19	24

In 1996, 221 CNAs had findings placed next to their names on the registry because abuse, neglect or misappropriation of the property of a resident occurred. This represents a 42 percent decrease from 384 findings in 1995.

Interactive Voice Response System

An interactive voice response (IVR) system for verification of information on the Nurse Aide Registry is in the development stages. It is anticipated to be in use by the end of 1997. The IVR will --

1. provide easier access to nurse aide data for callers by reducing the "busy" signals they now receive;
2. be available to callers at least 18 hours a day, seven days a week;
3. reduce the amount of time Education and Training staff spend on the telephone, improving staff productivity in other needed program areas.

Inspections and Surveys

The Division of LTC Field Operations conducts state licensure and federal certification surveys and investigations. Due to the considerable similarity of state licensure and federal certification

regulations and the mandated, highly structured certification survey procedures, licensure and certification activities have historically been conducted concurrently in accordance with the federal survey procedures. Deficiencies cited during these combined surveys are applied to both licensure and certification requirements. The only exceptions to this federal certification driven survey process are surveys conducted at facilities not participating in the federal Medicare/Medicaid program, distinct licensure activities (probationary licensure and initial licensure surveys), or the relatively few instances in which state regulations are more strict than the federal requirements.

Table 5 shows the number of survey activities conducted in 1994, 1995, 1996. The significant increases in work load are due to increases in the number of facilities and the expanded surveillance mandated by the federal enforcement regulations implemented in 1995.

TABLE 5
Surveys/Investigations/Inspection of Care
1994, 1995 and 1996

<u>Type</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
Annual Licensure/Certification Surveys/Follow-up Surveys	4,744	5,121	5,519
Licensure/Certification Complaint Investigations/Follow-up Investigations	5,168	5,623	5,753
Medicaid IOC Reviews (DD only)	248	343	313
Licensure Probationary/Initial Surveys	164	141	72
Certification Initials	55	48	44
Incident Report Investigations	287	251	245
Special Surveys - Licensure/Certification (Off-cycle, Incident Investigations, After Hours)	231	212	64
TOTAL	10,897	11,739	12,010

Staffing

As of December 31, 1996, there were 237 positions within the Division of LTC Field Operations. Table 6 illustrates the staffing levels since 1994 for the three distinct programs within the Division:

TABLE 6
Division of LTC Field Operations Staff

<u>Program</u>	<u>Staffing Level</u>		
	<u>1994</u>	<u>1995</u>	<u>1996</u>
Licensure/Certification Survey/Investigations	217	203	191
Inspection of Care	30	30	30
Review	17	16	16
DIVISION TOTAL	264	249	237

Table 6 illustrates a continuing trend of decreased staffing levels within the Division of LTC Field Operations licensure and certification survey and investigation program. Two significant changes in the certification survey process have magnified this staffing shortage. Pursuant to the changes enacted by the federal Omnibus Reconciliation Budget Act of 1987, the federal certification survey process was significantly changed in 1990. The Department was notified by HCFA that these changes would increase our LTC survey work load by 40 percent. *Based on 1990 work load, a 40 percent increase would require the Division of LTC Field Operations to increase staffing to 274 positions.* The Department's federal budget for LTC certification survey activities was significantly increased to allow for the hiring of additional staff. Division survey staffing increased to 234 by the end of 1990. Beginning in 1991, cuts in the Department's state funding for LTC surveys necessitated the use of federal funding for surveyor positions formerly funded by the state budget, to avoid laying off survey staff. By 1992, all additional federal funds earmarked for staff increases had been used to off-set state budget reductions. In addition, no positions that became vacant from 1990 to 1992 were filled. State budget reductions ultimately necessitated the layoff of nine surveyor positions by the end of 1992. Division staffing never approached the 274 positions required by the 1990 work load increases. In fact, staffing dropped from 234 in 1990 to 199 by the end of 1992.

While there was some increase in staffing levels between 1992 and 1994, reductions in federal funding resulted in the loss of 15 positions by 1995.

In 1995, the federal enforcement regulations were implemented. These regulations, addressed in detail later in this report, added additional work load to the Division staff.

The result of this continuing staffing shortage is that the Department has lost the ability to maintain both compliance with state and federal mandates for survey frequency and mandates for survey quality.

See Appendix L for the comparison of work load and staffing since 1990.

Implementation of Federal Certification Enforcement Regulations

On July 1, 1995, the federal Health Care Financing Administration modified the LTC certification survey procedures and established new enforcement regulations. The enforcement regulations instituted intermediate sanctions for noncompliance with federal certification requirements. Before these regulations were adopted, the only enforcement remedy applied to certified facilities was decertification. Historically, decertification was pursued only in cases where facilities were found to be in substantial noncompliance with a significant portion of the certification regulations over an extended period of time. The enforcement regulations established penalties for noncompliance with a single regulation. These penalties include imposed plans of correction, directed in-services, denial of payment for new admissions, state monitoring and civil monetary penalties ranging from \$50 per day to \$10,000 per day. Sanctions are applied immediately at facilities with poor compliance histories, and within 70 days of the original survey at all other facilities if differences are found uncorrected during a revisit.

The effect of these new federal regulations on the LTC program included --

1. A significant increase in the number of distinct revisit surveys. Before implementation of intermediate sanctions, only the most serious violations mandated a revisit survey within 70 days. These revisit surveys were conducted at approximately 10 percent of the facilities. All other revisit surveys were conducted at the time of the Department's next annual survey, thus allowing the Department to conduct two survey activities at the same time.

The enforcement regulations have mandated that 70-day revisit surveys be conducted when the facility is found to be in noncompliance with any regulation where there is a potential for harm. At present, 70 percent of all facilities are cited for these violations and require at least one if not multiple revisits.

2. A significant increase in the amount of work involved in survey package review and an increase in informal dispute resolution (IDR) requests by facilities. Before the enforcement regulations, surveyors and reviewers had to determine if a deficiency was a level B or level A. The new regulations require a deficiency to be grid, in accordance with its scope and severity, as one of 12 different levels. This has greatly increased review time.

The federal certification survey process allows a facility to submit a written refutation and supporting evidence to avoid the documentation of deficiencies. Only a small percentage of facilities formerly used this process. Since the implementation of the enforcement regulations and the resulting fines and penalties, the majority of facilities now submit lengthy IDRs. In accordance with federal requirements, each IDR package must be reviewed before the report of deficiencies is issued to the facility. The result is a major increase in survey package review time.

In 1996, HCFA broadened its interpretation of a facility's right to submit an IDR request. Originally, a facility could refute a deficiency only once. In addition, the IDR could refute only whether the facility was out of compliance and not the scope and severity assigned to the deficiency. HCFA has now given facilities unlimited rights to IDR and the ability to refute scope and severity determinations for significant deficiencies related to quality of care. These new interpretations have resulted in a further increase in the number of IDRs and, in many instances, the amount of time in reviewing them.

3. The amount of time available to review and process survey packages was reduced. The LTC program now has to review more complex packages along with the increased number of informal dispute resolution packages and so is able to devote less time to reviewing each package than previously was spent on survey package review.
4. The administrative time associated with the citation of deficiencies and processing packages to the Medicaid agency and HCFA has increased. Because the types of deficiencies and the paperwork necessary to process the various penalties have increased, approximately 60 different facility penalty notification letters had to be developed. The processing of these new notification letters has greatly increased administrative time.
5. The number of requests for administrative hearings has increased. Because facilities now face fines and penalties, they are more aggressive in their efforts to refute survey findings. Participation in these hearings takes surveyors out of the field and reduces the Department's ability to maintain the survey schedule.
6. The federal enforcement process is not compatible with the state's complaint investigation regulations. The enforcement regulations established a 180-day time frame for noncompliant facilities to come into compliance. Facilities that fail to come into substantial compliance within the time frame are decertified. If a revisit survey during the 180-day time frame finds a facility in compliance, the enforcement process is discontinued. Because strict investigation time frames are established in the Nursing Home Care Act, many complaints that arise during this 180-day period cannot be combined with the revisit surveys, and a second survey process is established within the 180-day enforcement time line. The inability to combine complaint investigations with ongoing surveys increases the complexity of the enforcement process.

While these new federal regulations are intended to increase compliance and to remove consistently noncompliant facilities from the federal certification program, they also have greatly increased the Department's work load.

In 1996, the Division of LTC Field Operations expanded the implementation of the "Quality Review Tool" (QRT). The intent of the QRT is to identify surveyor training needs quickly and to assure consistency in the interpretation of the regulations. This program was expanded to include a computer database of all of the QRT results. These data now can be collated to identify training needs of individual surveyors and to address issues as specific as the interpretation of a single regulation.

The work load of the Division of LTC Quality Assurance Licensure Section in the plan review process increased during 1996. Retirement of the Department's only electrical reviewer transferred that portion of the review process to existing architectural and mechanical review staff. The number of new facilities continued to increase with 17 new facilities licensed in 1996 for an additional 1,448 beds. Many of the projects required multiple on-site visits prior to initial acceptance of the buildings. An additional 38 projects were approved, with many requiring one or more on-site visits prior to approving licensure. Additional projects and issuance of certificates of need for new facilities resulted in backlogged plans for review for periods of eight months as of December 31, 1996. The Department is proposing legislation to provide a fee structure for plan reviews that could defray a portion of the cost of expanded review and support staff to expedite reviews, provide for interim on-site visits to detect potential problems, and provide for more timely final inspections and licensure. Table 7 shows the number of projects approved during each month of 1996.

TABLE 7
Construction/Renovation/Additions Approved
by Project Review Unit in 1996

<u>Month</u>	<u>Number of Projects Approved</u>
January	2
February	2
March	2
April	3
May	8
June	2
July	5
August	4
September	1
October	4
November	1
December	<u>4</u>
Total	38

Surveyor Minimum Qualifications Test

Federal requirements mandate that any individual conducting certification surveys of long-term care facilities pass the surveyor minimum qualifications test (SMQT). The test is divided into two modules. Module A addresses basic survey skills and environmental health and safety components. Module B addresses the clinical aspects of nursing care and nutrition. All surveyors must pass Module A, and surveyors who evaluate nursing care and nutrition must also pass Module B. Surveyors, who are allowed three attempts to pass the exam, take the test at the conclusion of their federal training in Baltimore, Maryland.

State Basic Surveyor Orientation Program

The State Basic Surveyor Orientation Program prepares participants to formulate an organized body of knowledge of governmental and nongovernmental accreditation programs. Using a conceptual approach, students learn how to readily identify the presence or absence of quality patient/resident care in the provider facility and to generate expected competencies in the survey process.

HCFA requires surveyors to attend two one-week training sessions within the first year of their employment. In 1993, in response to suggestions from the supervisors and surveyors, the program was expanded to three one-week training sessions better to meet the needs of the new surveyors. By extending the program to three weeks, the required material can be covered more thoroughly at a less stressful place.

Materials and assignments given to the participants during the orientation program were used as a study guide in preparing to take the SMQT. All worksheets and final exams were again revised this year to correlate specifically with Appendix P of the State Operations Manual. The surveyors receive a HCFA orientation manual and a self-instructional manual, which is updated with each training session.

The orientation program was conducted in the spring of 1996. Week I was March 4-8, 1996, Week II was April 1-5, 1996; and Week III was April 29-May 3, 1996. There were 18 participants: nine registered nurses; five LTC surveyors from IDPH and four regional supervisors from the Illinois Department of Public Aid (IDPA). A representative from the Department on Aging's State Ombudsman Program attended some of the sessions as an observer.

Topics for the training sessions included the role of the surveyor, dietary services and systems assessment, food service sanitation, the Health Care Worker Background Check Act, federal requirements, infection control, computer-related issues, the administrative hearing process, communication, residents' rights, and administrative procedures such as survey scheduling and preparation of travel vouchers. A mock survey was conducted during Week III.

Staff from the Department of Public Aid and Department on Aging were invited to attend the training for IDPH surveyors so that these other agencies that provide services to the aged can see what is required of IDPH staff in surveying LTC facilities. In addition, this allowed an opportunity to develop a rapport and an interactive working relationship between various agencies concerned with the welfare of the elderly population.

This year's training was open to some surveyors who have been with the Department for several years but who felt it advantageous to attend the updated training session under the federal enforcement rules of 1995. This proved to be a positive experience for the majority of the participants and provided a mutual exchange of information between new and experienced surveyors.

The State Basic Surveyor Orientation Program is constantly being improved through the combined efforts of the Education and Training Section, Long Term Care Field Operations and Quality Assurance to continually upgrade the quality of care received by residents and clients in long-term care settings.

To assure consistency in the application of the survey procedures and interpretation of regulations, the Division of LTC Field Operations has initiated an advanced surveyor training (AST) program for veteran surveyors. This one-week training program is a follow-up to the basic orientation and is intended for veteran surveyors and field supervisors. This focused training program addresses all of the recent changes in the survey process and regulations to assure consistency among survey staff.

MDS 2.0 Refresher Sessions

In June, July and December 1996, the Department conducted 10 MDS (minimum data set) 2.0 resident assignment instrument refresher sessions for all long-term care surveyor staff. Titled "Know the Tools of Your Trade," these one-day training sessions were held in each region, as well as in the Springfield central office. A total of 270 surveyors attended.

The workshop included an overall review/clarification of the MDS 2.0 user's manual and resident review portion of the state operations manual. Additionally, there was an opportunity to use the interview procedures listed in the manual to complete a portion of the MDS and further exploration of the "RAPS" (resident assessment protocols).

Reported Nursing Home Fires, 1996

In 1992, the Department began developing a form (Appendix N) to gather information on fires that occur within nursing homes licensed by the Department.

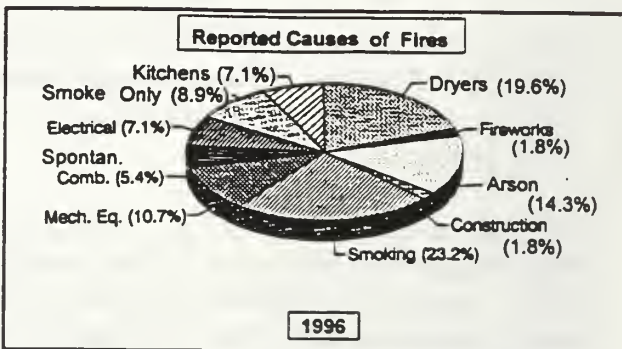
The form, which is being used by the architectural staff of the Life Safety Section of LTC Field Operations, is filled out based on visits to facilities where fire situations have occurred or based on telephone conversations with the facility staff after the incidents.

Use of the form has enabled the Department to compile data on incidents of fire, how fires are extinguished, and how fires are first detected. This information has verified the active involvement of well-trained staff, who appear to be the principle means of detecting as well as the principle means of extinguishing small fires.

The fourth year of gathering data on fires indicates a continued communication between the Department and the industry. This communication has resulted in more minor fires reported for 1996. The reports have shown only three minor injuries to residents.

The information gathered from the 56 fire reports for 1996 has been prepared in the same format as in previous years. The same three categories were used: reported causes, methods of detection, and methods of extinguishment.

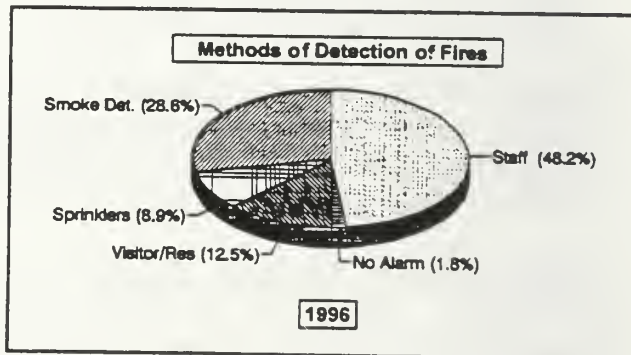
The summary of the reported causes of fires again shows the major cause to be smoking in the facilities. Residents smoking in their rooms accounted for 13 of the 56 reported fires. This information reinforces the need for strict enforcement of smoking policies in the facilities and increased observation of residents who may be potential problem smokers. Eight of the reported "arson" fires may be directly related to resident misuse of smoking materials, with the intent to do damage to the building or to injure themselves.



The second most significant cause of fires in long-term care facilities was listed as laundry room dryers. Many of the dryer fires are attributed to spontaneous combustion of the dryer's contents.

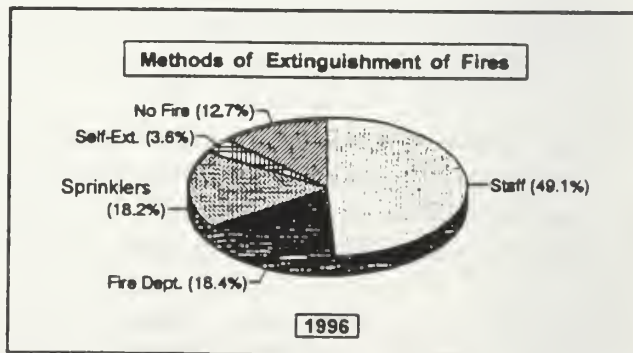
As in previous years, trained, alert staff played a major part in detecting fires. Staff are credited with detecting 27 of the 56 reported fires.

The second most successful means of detection has been smoke detectors, detecting 16 of the 56 fires. ("No alarm" means a fire occurred, but no alarm was turned in. One laundry dryer fire, for example, was extinguished without any alarm being given.)



Staff training continues to be an important part of fire extinguishment this report year. Staff are credited for extinguishing 27 of the 56 reported fires.

Fire departments are credited for extinguishing nine of the 56 reported fires. Credit is given to the fire department even though staff may have already begun the extinguishment process. ("No fire" is used to indicate situations where a fire was suspected, and all actions were taken, but no fire was found.)



There is still room for improvement in the reporting procedures. It is hoped that future years will show a more cooperative spirit in communicating fire situation reports. Facilities are again requested to report any fire situations to the Department's regional offices. These will be reviewed and reported to the central office.

Developmental Disabilities Section

In 1996, HCFA implemented changes in the survey procedures for DD facilities. These modifications focused survey activities on client outcomes, rather than process requirements. Client and guardian interviews and increased client observations were mandated by these changes. Thus far, the result has been improved surveillance especially in the area of client health care services in the small group home setting of 16 or fewer beds. A significant increase in the number of facilities found out of compliance with the health care condition of participation was documented in 1996. It appears that the trend of increasing non-compliance in the provision of health care to DD clients in 16 or fewer bed settings will continue to increase in 1997 (see Appendix M).

Two-year Licenses

A revision to the Nursing Home Care Act (P.A. 87-1102, effective January 1, 1993) allowed the Department to issue two-year licenses to qualifying facilities. To qualify, a facility shall not have had within the last 24 months --

- a Type A violation;
- a Type B violation;
- an inspection that resulted in 10 or more administrative warnings;
- an inspection that resulted in an order to reimburse a resident for a violation of Article II (Section 3-305) of the Act;
- an inspection that resulted in an administrative warning issued for a violation of improper discharge or transfer (relating to Section 3-401 through 3-413); or
- sanctions or decertification for violations in relation to patient care in a facility under Titles XVIII and XIX of the federal Social Security Act.

During 1996, the Department issued 630 renewal licenses. The number of two-year eligible facilities decreased to 35 percent. The decrease resulted from issuance of two-year licenses to most facilities during the initial year of the two-year program with the majority of the remaining facilities still not qualifying for a two-year license at the next license renewal period. Review of results of federal certification surveys disqualified the majority of facilities from participating in the two-year program. There continue to be minimal advantages to the two-year license program. Because certification program status must be verified manually for each facility at the time of license renewal and license application, central office clerical staff time doubles.

TABLE 8
1996 License Renewal Information

<u>Month</u>	<u>1-Year</u>	<u>2-Year</u>	<u>TOTAL</u>
January	39	17	56
February	36	22	58
March	30	13	43
April	33	16	49
May	44	19	63
June	32	12	44
July	27	13	50
August	45	13	58
September	27	26	53
October	34	27	61
November	20	16	36
December	37	22	59
TOTALS	414(65%)	216(35%)	630(100%)

PART III DEPARTMENT ENFORCEMENT ACTIONS

Effective July 1, 1995, because of implementation of Public Act 88-278, no licensure violations were cited at facilities certified under Title XVIII or Title XIV of the Social Security Act. A mechanism is in place, through the certification program, to alert the Licensure Section of any sanctions that are being imposed through federal enforcement action.

Violations

Professional reviews by the Division of LTC Quality Assurance may yield any combination of "A" or "B" violations or no violations. When a "B" level violation is found, a facility is required to describe its actions or proposed actions and its plan for correction. The Department imposes a plan of correction when an "A" level violation is cited. If a reinspection indicates that a facility has not corrected a violation after an acceptable plan of correction has been established, a repeat violation may be issued.

TABLE 9
Total Violations Initially Issued*
1994, 1995 and 1996

<u>Violation Level</u>	<u>Date</u>		
	<u>1994</u>	<u>1995</u>	<u>1996</u>
"A" violation	34	17	8
Repeat "A" violation	0	0	0
"B" violation	440	327	86
Repeat "B" violation	6	5	1

* Violations issued from all survey types, including annual, complaint, reinspection, et al. The number of violations after 1994 decreased because violations are now cited under certification.

Licensure Action

Based on the number and level of violations, adverse licensure action may be taken as follows:

Conditional License - Issued for a minimum of six months and up to one year "conditional" on a facility's complying with an imposed plan of correction. Considered when "A," repeat "B" violations, or multiple or serious "B" violations occur.

License Revocation or Denial - Facility substantially fails to comply with the NHCA or the Department's regulations, including those having to do with staff

competence, resident rights or the NHCA; licensee, applicant or designated manager has been convicted of a felony or two or more misdemeanors involving moral turpitude; the moral character of the licensee, applicant or designated manager is not reputable; or the facility knowingly submits false information or denies access during a survey.

Table 10 describes adverse actions:

TABLE 10
LTC Facility Adverse Licensure Action
1994, 1995 and 1996

<u>Type of Action</u>	<u>Date</u>		
	<u>1994</u>	<u>1995</u>	<u>1996</u>
Conditional License	42	24	3
Revocation or Denial of License	1	1	0

Article III of the NHCA authorizes the Department to impose a fine or other penalty on facilities that violate the Act. The more severe penalties are reserved for a facility that does not correct a violation within the time period required. The Department's Division of Legal Services collected \$210,378 in fines in 1996. When the Department finds that a facility has violated a resident's rights as specified in Article II of the NHCA, the Department issues an order requiring the facility to pay the resident damages or \$100, whichever is greater. In 1996, \$4,100 was reimbursed to residents because of violations of their rights.

Administrative Hearings

A facility may contest violations or other sanctions imposed by the Department. The Division of Legal Services represents the Department in administrative hearings. In 1996, 220 administrative hearings were requested by long-term care facilities. The results of the hearings for closed cases are shown in Table 11.

TABLE 11
Administrative Hearing Actions
1996

<u>Action</u>	<u>Number</u>	<u>Percent</u>
"A" -- Sustained	4	45 %
"A" -- Reduced to a "B"	2	23 %
"A" -- Dismissed or Withdrawn	3	34 %
"B" -- Sustained	88	70 %
"B" -- Dismissed or Withdrawn	10	8 %
Other	2	1 %

Monitors and Receivers

The Department placed monitors in six facilities in 1996. Facilities have had monitors for a total of 17 months with a range of one to nine months per facility and an average of three months. The Department placed a receiver in one facility after a court hearing. The receiver was in place for 180 days. This action resulted in the ultimate closure of the facility. All residents were relocated to other licensed settings.

Unlicensed Long-Term Care Facilities

The NHCA authorizes the Department to investigate any location reasonably believed to be operating as a long-term care facility without a license. Only those locations that are the subject of a complaint are investigated. When a location is found to be in violation for the first time, the Department offers the ownership the opportunity to come into compliance with the Act. If the ownership fails to come into compliance, or is found in violation more than once, the location is referred to the Attorney General's Office for prosecution. Activities related to investigation and enforcement actions against unlicensed long-term care facilities have significantly increased in the last few years because of the number of complaint allegations and the extreme circumstances associated with several of the locations.

In 1996, there were 66 allegations of locations operating as unlicensed long-term care facilities; 16 of these locations had never previously been the subject of a complaint. Multiple complaints were received concerning some locations previously known to the Department. It is not clear whether the number of unlicensed long-term care facilities has increased or whether increased public awareness has resulted in locations that have operated for many years being reported for the first time.

These locations are investigated to determine if they are operating as long-term care facilities. Locations that previously have been found to be operating as long-term care facilities may not be reinvestigated. In 1996, 40 complaints concerning locations operating without a license were found to be valid. Eight locations were offered voluntary compliance.

The Attorney General's Office often requests reinvestigations after a location has been referred for enforcement to determine if noncomplying conditions continue to exist. The Attorney General's Office requested two reinvestigations in 1996.

Administrative Rules

Rulemaking activity resulted mainly from the enactment of the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995). This law required new employees in certain licensed health care facilities, who provide direct care but are not licensed by this Department or the Department of Professional Regulation, to have a criminal history record check pursuant to the Uniform Conviction Information Act, beginning January 1, 1996. Health care employers were allowed until January 1, 1997, to initiate the record checks for current employees. Persons whose criminal background checks reveal convictions for the disqualifying crimes listed in the

law are prohibited from working in direct care positions unless they receive a waiver from the state agency that licenses the health care employer.

Amendments implementing the Health Care Worker Background Check Act were adopted effective July 15, 1996, for the following rules: Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300), Sheltered Care Facilities Code (77 Ill. Adm. Code 330), Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350), Illinois Veterans Homes Code (77 Ill. Adm. Code 340), Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390) and the Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395). The amendments include a list of the disqualifying crimes under the Health Care Worker Background Check Act; clarification of requirements for inclusion of a nurse aide on the Nurse Aide Registry; requirements for facilities concerning the initiation of background checks; a list of exemptions under the law; notification requirements to the applicant or employee; procedures concerning fingerprint-based records checks; provisions governing requests for waivers, including a list of the "mitigating circumstances" that the law requires the Department to consider in granting waivers; requirements for submitting documents to the Department and for retaining records at the facility. The amendments to Part 395 also clarify requirements for nurse aide training programs, including procedures for review of programs for developmental disabilities aides by the Department of Mental Health and Developmental Disabilities.

Amendments implementing P.A. 88-413 were adopted September 10, 1996, to the Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300), Sheltered Care Facilities Code (77 Ill. Adm. Code 330), Illinois Veterans Homes Code (77 Ill. Adm. Code 340), Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350), and Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390). Public Act 88-413 required the Department to designate, by rule, certain devices as restraints, in accordance with federal guidelines, and to adopt, by rule, standards for unnecessary drugs, also in accordance with federal guidelines. The rule changes included definitions; requirements for the emergency and nonemergency use of restraints; provisions concerning obtaining informed consent; and federal guidelines concerning unnecessary, psychotropic and antipsychotic drugs.

PART IV CENTRAL COMPLAINT REGISTRY

Table 12 describes contacts made to the Central Complaint Registry (CCR) in 1994, 1995 and 1996.

TABLE 12
CCR Contacts
1994, 1995 and 1996

<u>Type</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
Total Calls	21,081	20,187	20,149
Total LTC Complaints	4,491	4,100	4,486
Total LTC Incident Reports	8,302	7,535	6,844
Reports of LTC Abuse and Neglect	899	835	858
Physical Abuse	170	178	165
Sexual Abuse	52	52	55
Verbal Abuse	39	44	50
Neglect	372	300	332
Mental Abuse	244	221	232
Sexual Assault	22	40	24
Other Resident Injury	758	773	819

Table 13 describes those persons who reported abuse or neglect of residents. The change in informants from 1994 to 1995 may be attributable to the questions that the consent decree in Protection & Advocacy v. John R. Lumpkin requires the Department to ask informants or to the new categories of abuse established by the decree.

TABLE 13
Informants of Abuse/Neglect
1994, 1995 and 1996

<u>Informants</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
Family	336	639	682
Employee	739	323	355
Resident (self)	109	99	107
Other	434	511	500

In reviewing complaints, the Department determines the validity of each allegation rather than each complaint. A complaint may have one or more allegations. Table 14 identifies the validity and Table 15 the outcome of complaint allegations. (Note: The total in Table 14 may be less than the total allegations received, since determinations have not yet been made on all allegations received in 1996.)

TABLE 14
Validity of Allegations
1995 and 1996

<u>Allegations</u>	<u>1995</u>		<u>1996</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Valid	1,661	23%	1,722	24%
Invalid	5,569	77%	5,555	76%
Undetermined	9	< 1%	2	< 1%
TOTAL	7,239		7,279	

TABLE 15
Violation Levels for Allegations
1995 and 1996

<u>Level</u>	<u>1995</u>	<u>1996</u>
"A"	16	9
Repeat "A"	0	0
"B"	133	33
Repeat "B"	0	3

PART V NEW DEVELOPMENTS AND FUTURE DIRECTIONS

The activities defined by the Nursing Home Care Act and the Abused and Neglected Long-Term Care Facility Residents Reporting Act change constantly. Persons living in long-term care facilities have changing needs and expectations. Legislation, both federal and state, changes regulatory methods and parameters. The long-term care industry and resident advocacy groups change their focus.

The following listing, in no particular order, describes issues that faced the Department in the LTC area at the end of 1996. For some issues, there is a clear direction. For others, the issue is still formulating and the direction, therefore, remains unclear.

Rule Consolidation

The Department has five sets of administrative rules governing seven types of facilities, all licensed under the authority of the NHCA. Draft rules, consolidating these five sets, have been completed. A meeting with industry and public representatives resulted in recommendations for improvement. While this activity offers many benefits for residents, the industry and the Department, competing priorities continue to delay completion of the project.

Assisted Living

The concept of "aging in place," through the use of in-home services, congregate living or other alternative health care models, is increasingly becoming more of an issue as the number of "well" seniors needing some services and demanding alternatives to long-term care expands. The Department is only beginning to discuss these issues with other agencies, consumers and the industry.

Health Care Worker Background Check Act

The Health Care Worker Background Check Act [225 ILCS 46] requires health care employers to conduct Illinois State Police criminal history record checks on employees who have responsibility for direct care and who are not otherwise licensed by the Illinois Department of Professional Regulation or this Department. In long-term care facilities, the law primarily applies to certified nurse aides. As the result of their criminal history record checks, persons with convictions in any of 13 areas (see Appendix O) may not work in a position having direct care responsibilities without a waiver issued by the Department.

As of January 31, 1997, 222,243 persons were on the Nurse Aide Registry. Of these, 24,419, or approximately 11 percent, had the results of a criminal history check recorded on the Registry. Of those with a criminal history record check, 971, or approximately 4 percent, had a conviction in at least one of the 13 disqualifying areas.

The Health Care Worker Background Check Act allows the Department to issue waivers to applicants "based upon any mitigating circumstances, which may include, but need not be limited to:

- 1) The age at which the crime was committed;
- 2) The circumstances surrounding the crime;
- 3) The length of time since the conviction;
- 4) The applicant or employee's criminal history since the conviction;
- 5) The applicant or employee's work history;
- 6) The applicant or employee's current employment references;
- 7) The applicant or employee's character references;
- 8) Nurse aide registry records; and
- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, patients, or clients." (Section 40 of the Health Care Worker Background Check Act)

As of January 31, 1997, the Department had received 584 requests for a waiver. Of these, 401 were granted, 47 were denied, and 136 were pending or the applicant had no disqualifying conviction. Of the 401 waivers granted, only 336 were for individuals on the Nurse Aide Registry. Since 971 persons have disqualifying criminal history records checks, it appears that a large number of these persons choose to seek employment elsewhere and do not attempt to get a waiver.

Public Act 89-674, effective August 14, 1996, revised the Health Care Worker Background Check Act to require that "an educational entity, other than a secondary school, conducting a nurse aide training program must initiate a [Illinois State Police] criminal history record check prior to entry of an individual into a training program" (Section 30 of the Health Care Worker Background Check Act). This change in the law has had a large impact on nurse aide training programs as the criminal history record check is incorporated into admission procedures. It will be interesting to note if this revision to the Act affects the number of individuals graduating from training programs.

The Health Care Worker Background Check Act establishes a task force with members representing health care employers, health care employees, the general public, the Illinois legislature and state agencies. The group's first meeting was December 16, 1996. It is to study and make recommendations by September 30, 1997, for improving the Health Care Worker Background Check Act.

The Department has found activities relating to the administration of the Health Care Worker Background Check Act to be extremely labor intensive. Activities include inputting criminal history record checks onto the Nurse Aide Registry, administering the waiver application process, responding to telephone inquiries, providing training, and staffing the Health Care Worker Task Force. There has been no increase in staff to meet these activities.

Determination to Issue a Notice of Violation*

- a) Upon receipt of a report of an inspection, survey or evaluation of a facility, the Director or his designee shall review the findings contained in the report to determine whether the report's findings constitute a violation or violations for which the facility must be given notice and which threaten the health, safety, or welfare of a resident or residents.
- b) In making this determination, the Director or his designee shall consider any comments and documentation provided by the facility within 10 days of receipt of the report.
- c) In determining whether the findings warrant the issuance of a notice of violation, the Director or his designee shall base his determination on the following factors:
 - 1) The severity of the finding.* The Director or his designee will consider whether the finding* constitutes a merely technical nonsubstantial error or whether the finding* is serious enough to constitute an actual violation of the intent and purpose of the standard.
 - 2) The danger posed to resident health and safety. The Director or his designee will consider whether the finding* could pose any direct harm to the residents.
 - 3) The diligence and efforts to correct deficiencies and correction of reported deficiencies by the facility.
 - 4) The frequency and duration of similar findings* in previous reports and the facility's general inspection history. The Director or his designee will consider whether the same finding* or a similar finding* relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur.

* Facilities participating in Medicare (Title XVIII) or Medicaid (Title XIV) will receive "deficiencies" rather than "findings" or "violations."

Excerpted from 77 Ill. Adm. Code 300.272
Text is not represented in full.

Determination of the Level of a Violation*

- a) After determining that issuance of a notice of violation* is warranted and prior to issuance of the notice, the Director or his designee will review the findings which are the basis of the violation* and any comments and documentation provided by the facility to determine the level of the violation.*
- b) The following definitions of levels of violations shall be used in determining the level of each violation:
 - 1) A "level A violation" or "type A violation" is a violation of the Act or these rules which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm will result therefrom.
 - 2) A "level B violation" or "type B violation" is a violation of the Act or these rules which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident.
- c) In determining the level of a violation, the Director or his designee shall consider the following criteria:
 - 1) The specific requirements of this Part which have been violated.
 - 2) The degree of danger to the resident or residents which is posed by the condition or occurrence in the facility.
 - 3) The directness and imminence of the danger to the resident or residents by the condition or occurrence in the facility.

* Facilities participating in Medicare (Title XVIII) or Medicaid (XIV) will receive "deficiencies" rather than "violations."

Excerpted from 77 Ill. Adm. Code 300.274
Text is not represented in full.

TRAINING COORDINATED BY THE EDUCATION AND TRAINING SECTION
January to December 1996

February		
22	In-Service Dietary	Naperville
28	In-Service Dietary	Springfield
29	In-Service Dietary	Chicago
March		
4-8	Week I - State Basic Orientation	Springfield
14	Environmental Workshop	Mt. Vernon
20	Environmental Workshop	Naperville
21	Environmental Workshop	Springfield
April		
1-5	Week II - State Basic Orientation	Springfield
29-May 3	Week III - State Basic Orientation	Springfield
May		
1	Long-Term Care Administrators Conference	Springfield
2	Long-Term Care Administrators Conference	Mt. Vernon
7	Evaluator Workshop	Triton College/River Grove
7-9	Non-Nurse In-Service	Lisle
8	Long-Term Care Administrators Conference	Hillside
17	Evaluator Workshop	LLCC/Springfield
June		
19	MDS 2.0 Refresher	Champaign
20	MDS 2.0 Refresher	Peoria
26	MDS 2.0 Refresher	Edwardsville
27	MDS 2.0 Refresher	Marion
July		
10	MDS 2.0 Refresher	West Chicago
10, 11	DD Section Quality In-Service	Bellwood
11	MDS 2.0 Refresher	Bellwood
17, 18	DD Section Quality In-Service	Springfield
18	MDS 2.0 Refresher	Rockford
23	MDS 2.0 Refresher	Springfield
25	MDS 2.0 Refresher	Chicago
25	Evaluator Workshop	Rend Lake/Mount Vernon

September		
12	Evaluator Workshop	Triton College/River Grove
23-26	OBRA Update Evaluation In-Service	
October		
1, 2	Field Operations Division Staff Meeting	Springfield
December		
4	MDS 2.0 Refresher	Chicago

Administrative Rules Promulgated Under the Authority of The Nursing Home Care Act
[210 ILCS 45]

and

The Abused and Neglected Long-Term Care Facility Residents Reporting Act
[210 ILCS 30]

Skilled Nursing and Intermediate Care Facilities Code
(77 Ill. Adm. Code 300)

Sheltered Care Facilities Code
(77 Ill. Adm. Code 330)

Illinois Veterans' Homes Code
(77 Ill. Adm. Code 340)

Intermediate Care for the Developmentally Disabled Facilities Code
(77 Ill. Adm. Code 350)

Long-Term Care for Under Age 22 Facilities Code
(77 Ill. Adm. Code 390)

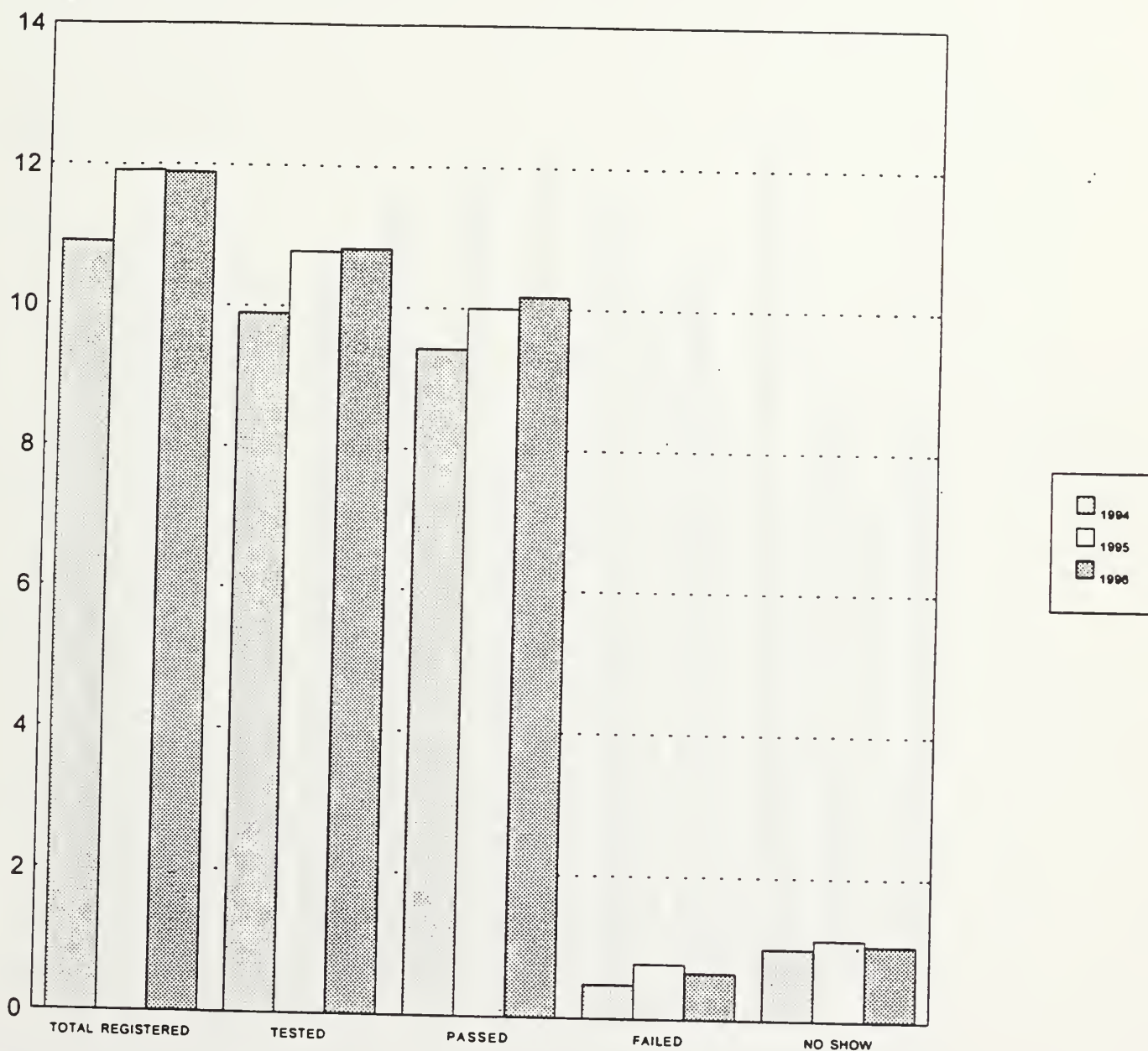
Long-Term Care Assistants and Aides Training Programs Code
(77 Ill. Adm. Code 395)

Central Complaint Registry
(77 Ill. Adm. Code 400)

NURSE AIDE TESTING INFORMATION

1994, 1995 and 1996

Thousands

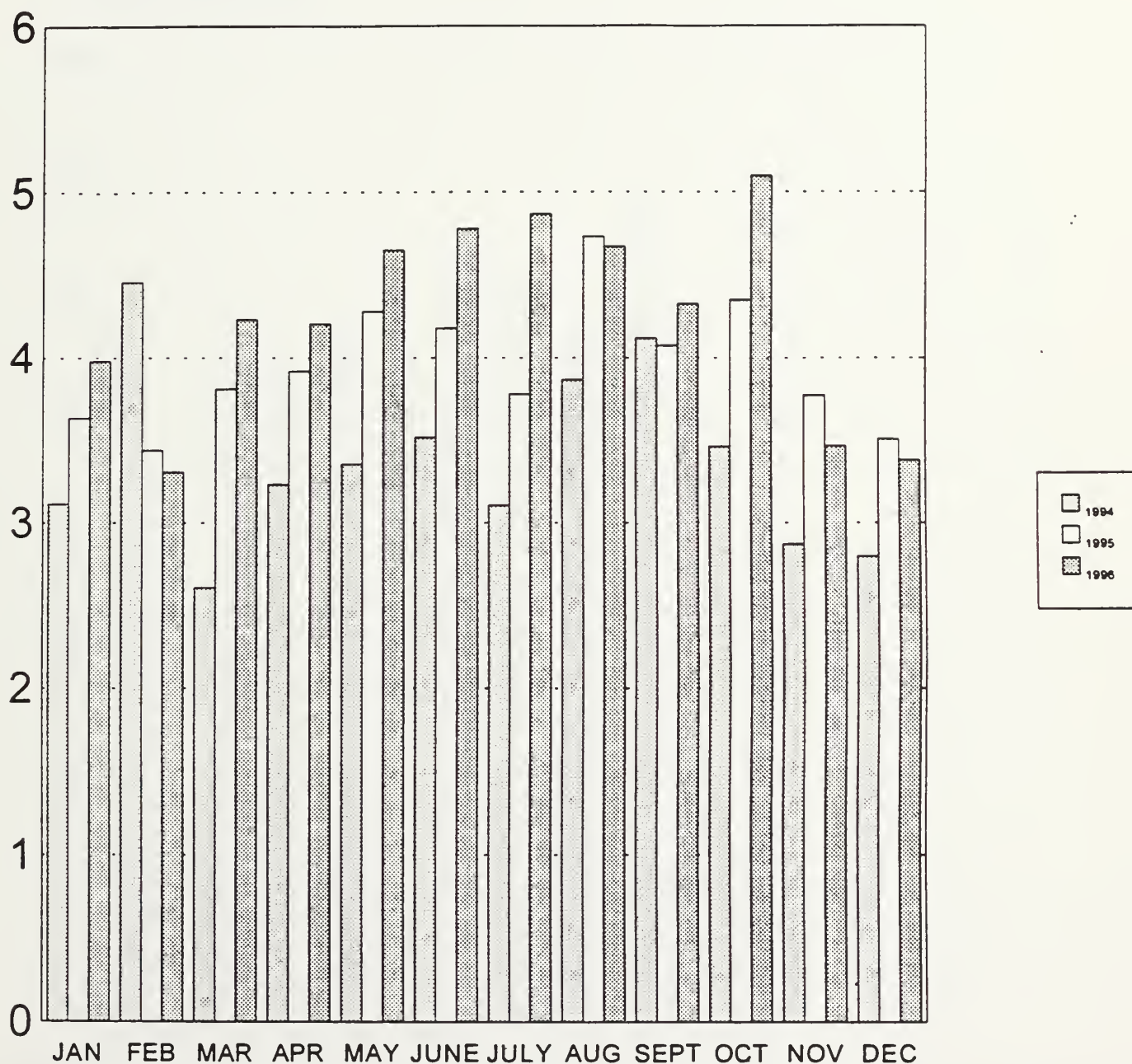


1994	10.898	9.895	9.419	0.476	1.003
1995	11.911	10.778	10.001	0.771	1.133
1996	11.889	10.827	10.172	0.655	1.062

NURSE AIDE REGISTRY PHONE CALLS RECEIVED

1994, 1995 and 1996

Thousands

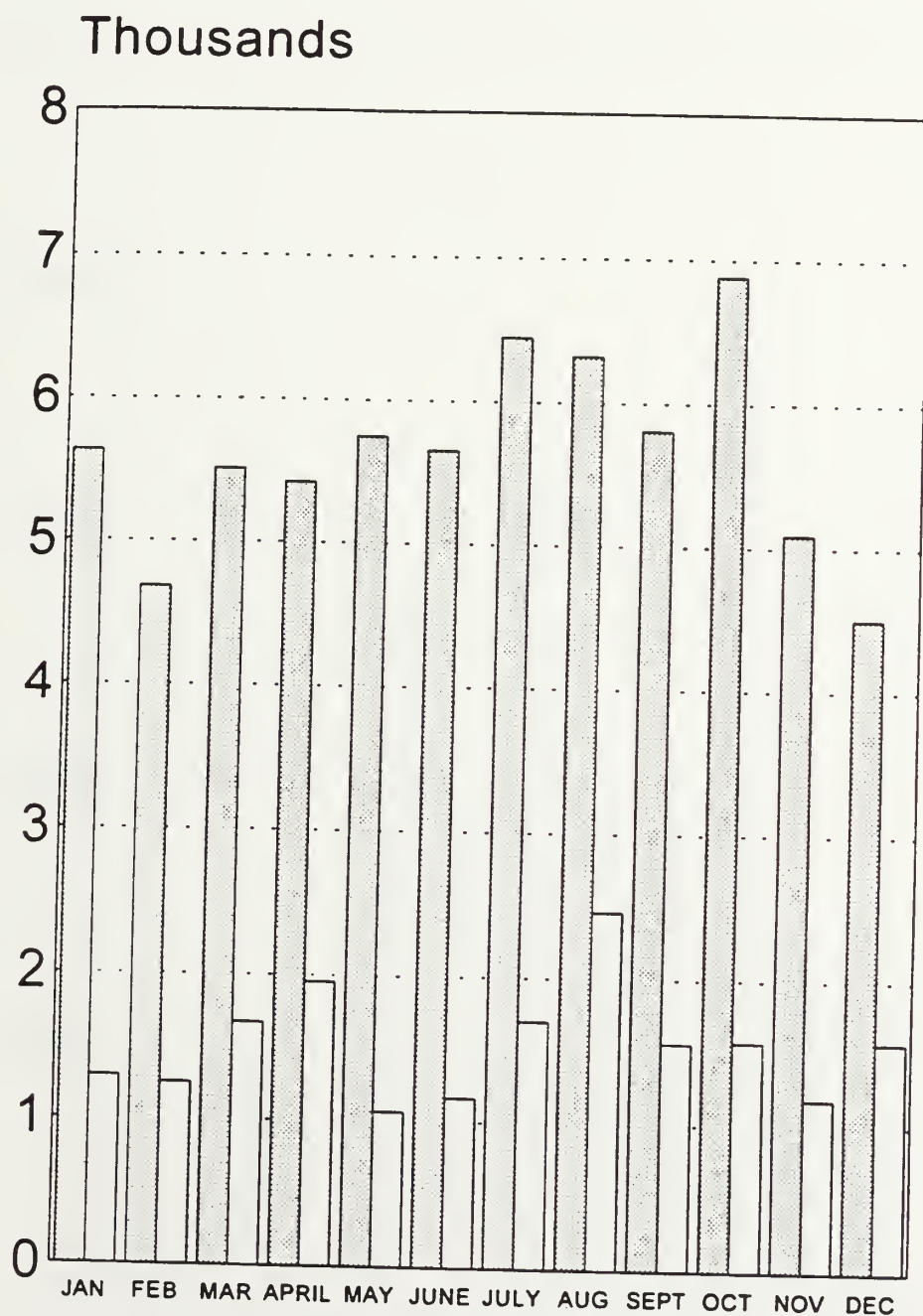


1994	3.116	4.461	2.606	3.233	3.357	3.519	3.107	3.867	4.119	3.464	2.87	2.797
1995	3.634	3.439	3.81	3.918	4.28	4.179	3.781	4.732	4.074	4.349	3.774	3.509
1996	3.979	3.309	4.232	4.206	4.651	4.779	4.868	4.671	4.326	5.098	3.468	3.383

NURSE AIDE VERIFICATION

Phone and Written

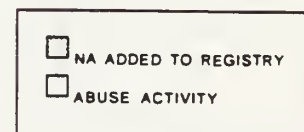
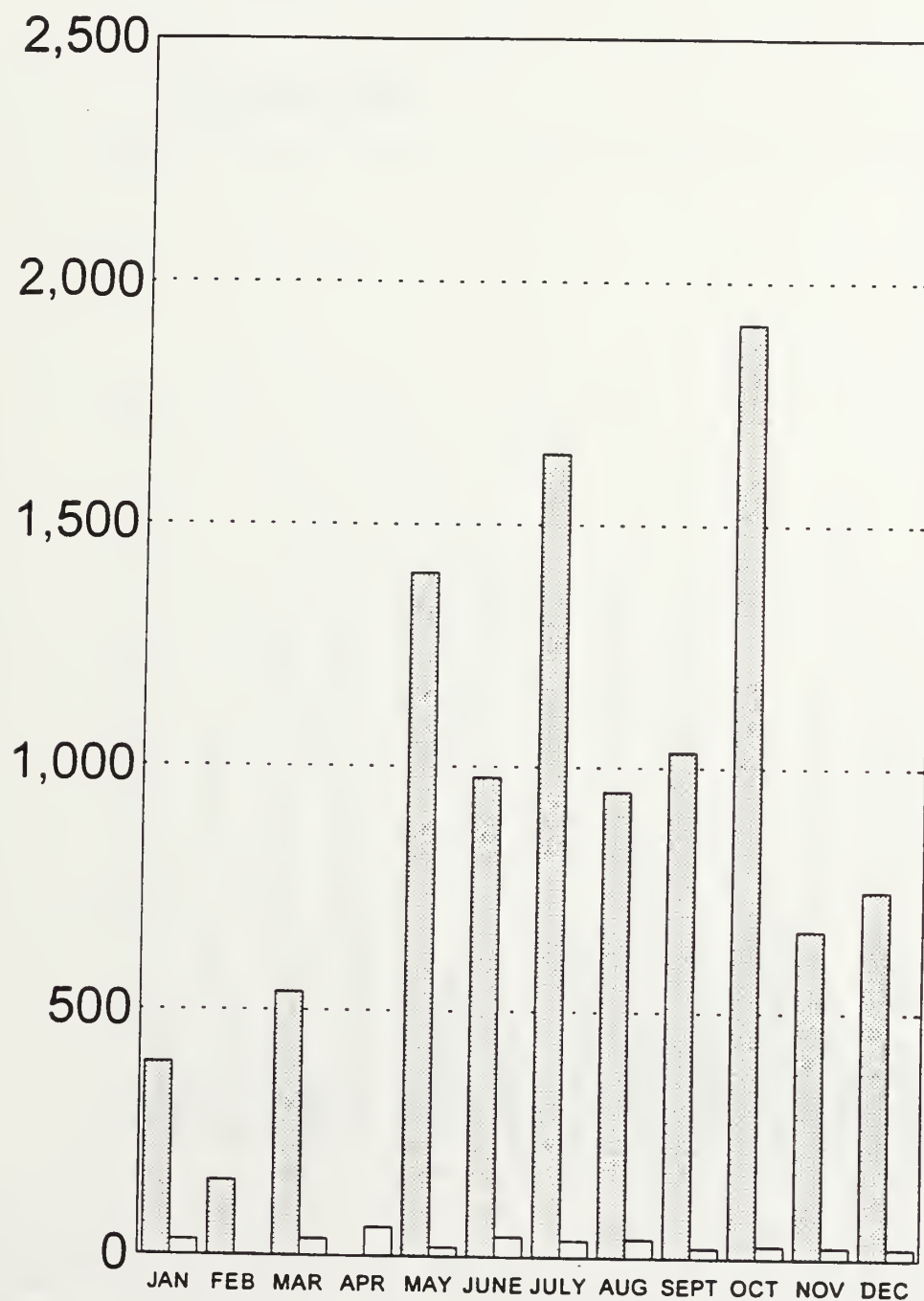
1996



Phone Verification	5 633	4 678	5 509	5 422	5 748	5 655	6 449	6 323	5 608	6 681	5 094	4 503
Written Verification	1 293	1 251	1 671	1 954	1 064	1 166	1 702	2 46	1 563	1 576	1 184	1 577

<input type="checkbox"/>	Phone Verification
<input type="checkbox"/>	Written Verification

NURSE AIDES ADDED TO NURSE AIDE REGISTRY NURSE AIDES ADDED TO ABUSE REGISTRY 1996

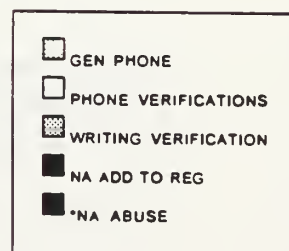
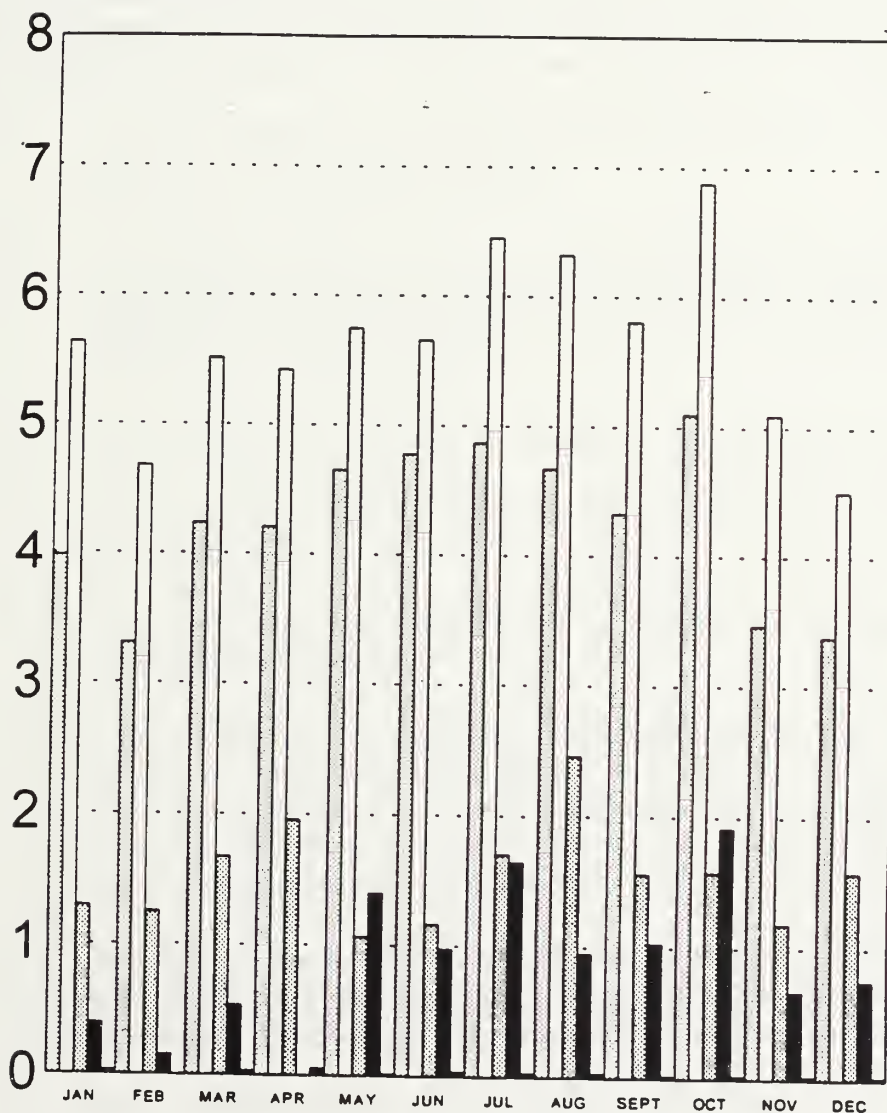




NURSE AIDE REGISTRY MONTHLY REPORT

1996

Thousands



GEN PHONE	3 979	3 309	4 232	4 206	4 651	4 779	4 668	4 671	4 328	5 098	3 466	3 363
PHONE VERIFICATIONS	5 833	4 676	5 509	5 422	5 748	5 655	6 449	6 323	5 606	6 661	5 094	4 503
WRITING VERIFICATION	1 293	1 251	1 671	1 954	1 064	1 166	1 702	2 46	1 563	1 576	1 164	1 577
NA ADD TO REG	0 392	0 152	0 537		1 4	0 978	1 646	0 95	1 032	1 914	0 668	0 749
*NA ABUSE	0 031	0 001	0 034	0 056	0 019	0 041	0 034	0 036	0 021	0 026	0 024	0 022

Definition of Facility or Long-Term Care Facility

"Facility" or "long-term care facility" means a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act. "Facility" does not include the following:

- 1) A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;
- 2) A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the "Hospital Licensing Act";
- 3) Any "facility for child care" as defined in the Child Care Act of 1969;
- 4) Any "community living facility" as defined in the Community Living Facilities Licensing Act;
- 5) Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act;
- 6) Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;
- 7) Any facility licensed by the Department of Mental Health and Developmental Disabilities as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act; or
- 8) Any "supportive residence" licensed under the Supportive Residences Licensing Act.

Nursing Home Care Act
[210 ILCS 45/113]

Summary of LTC Facility Survey Process

Task 1 Off-site Survey Preparation

- 1) Contact ombudsman.
- 2) Review all Department files for facility specific information and make appropriate copies for team members.
- 3) Survey team meeting.

Task 2 Entrance Conference

- 1) Inform about the survey.
- 2) Introduce survey team to facility representatives.
- 3) Explain to facility the survey process.
(Team members may proceed to Task 3)
- 4) Inquire about special units/treatment programs, room variances/waivers, room has at least one window to outside, rooms at or above ground level, and ensure water supply if there is a loss.
- 5) Give copy of OSCAR 3 and 4 to the facility and explain.
- 6) Post signs informing facility residents, staff and visitors of survey.
- 7) Introduce to Resident Council president, give a list of questions for council and make a date and time for council to be interviewed.
- 8) Obtain completed required forms from the facility.

Task 3 Orientation Tour

Tour facility to allow introduction of surveyors to residents and staff, identify interviewable and non-interviewable, heavy care and light care residents and identify patterns of poor care and treatment.

Task 4 Resident Sampling

Residents in the sample should be a case mix variation, with concerns that the team has selected to investigate, and has special factors as listed in SOM. Sampling is done in two phases, after the tour and part way through the survey. Approximately 60 percent of the sampled residents are chosen in Phase 1, with the remaining 40 percent chosen in Phase 2.

Task 5 Information Gathering

1) General observations of the facility.

Observe physical features in the facility's environment that affect resident's quality of life, health and safety.

2) Kitchen/food services observation

a) Review components of the dietary services system that may negatively impact the health and nutrition status of residents.

b) Evaluate adequacy of the food preparation system in meeting nutritional needs of residents.

c) Determine quality of life associated with dining.

3) Resident review

4) Quality of life assessment

5) Medication pass

Observe the actual set-up and administration of medication to detect medication errors or poor practices.

6) Quality assessment and assurance review

Task 6 Information Analysis and Deficiency Determination

Review and analyze all information collected and determine whether facility is out of compliance with one or more of the regulatory requirements.

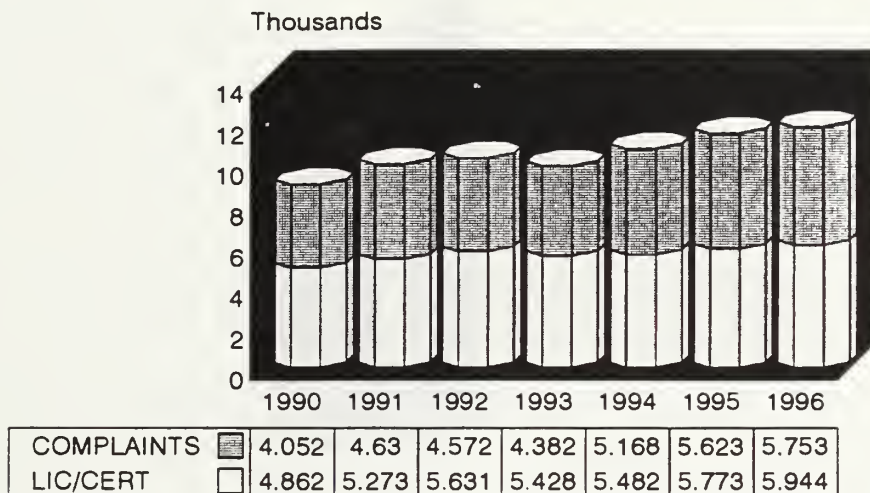
Task 7 Exit Conference

Inform facility of the survey team's observations and preliminary findings.

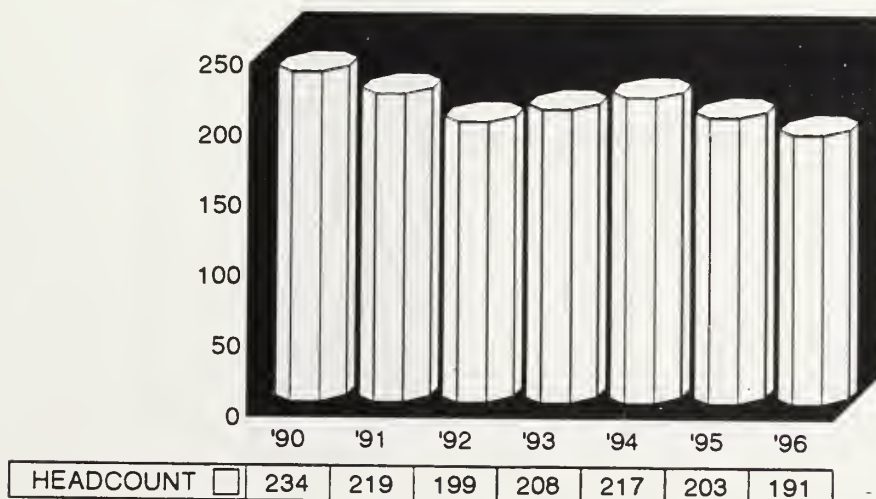
Workload vs. Headcount

Division of Long-Term Care Field Operations
(Non-complaint related survey activity)

WORKLOAD SURVEY/INVESTIGATION ACTIVITIES



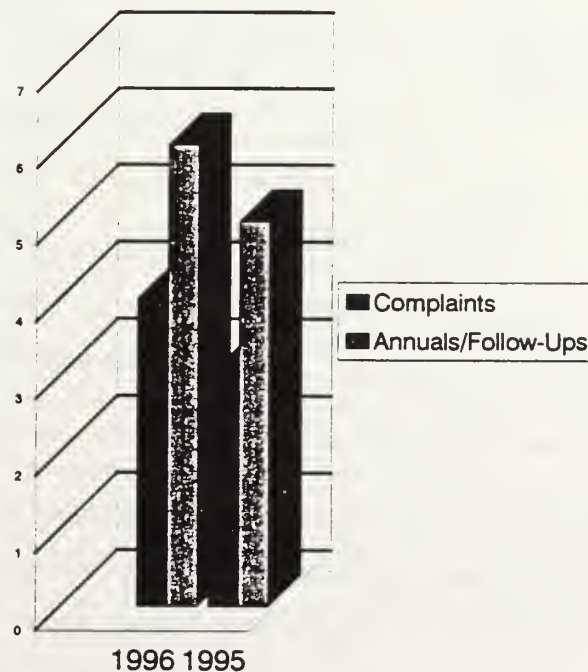
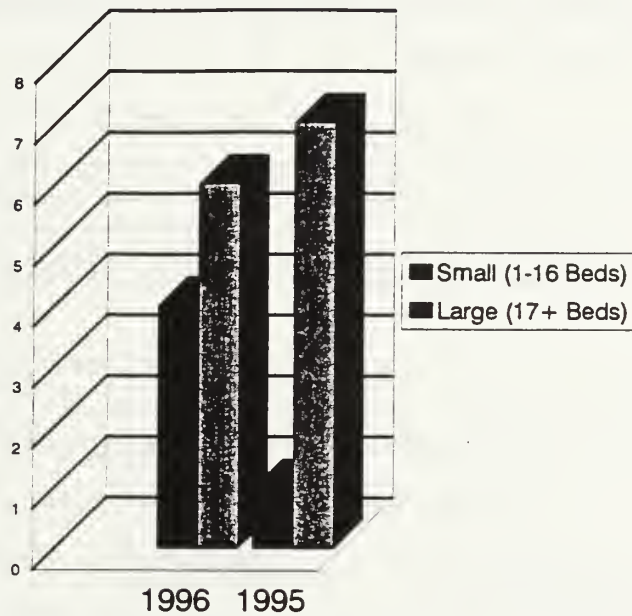
HEADCOUNT SURVEY/INVESTIGATION STAFF



VOLUME 100, PART 1, 2000
PAGES 1-100



Health Care Condition-level Deficiencies During Surveys In ICF/DD Facilities



REPORT OF FIRES IN HEALTHCARE FACILITIES

Facility Name: _____

Address: _____

City: _____ Provider No. 14

Date of Fire: ____/____/____ Time of Occurrence: ____:____ am/pm

Type of Fire: (Provide Narrative Description) _____

(Use Back of Sheet to Provide Additional Information As Needed to Fully Describe)

Location of Fire in Facility: _____

(Provide Sketches of Facility and Photographs to Show Location and Conditions)

Were There Injuries? Total Number ____ Residents? ____ Staff? ____ Others? ____

Were Residents Evacuated? From Room ____ From Wing ____
From Floor ____ From Building ____

Were (or Are) Residents Relocated to other Facilities, or other Locations? __ Yes __ No

Was Fire Alarm System Activated? ____ Yes ____ No

Method of Activation: Manual Pull Station ____ Smoke Detector ____
Heat Detector ____ Sprinkler System ____

Number of Sprinkler Heads Activated? ____

Was Follow Up Call Made to Fire Department? ____ Yes ____ No

Fire Department Responded? ____ yes ____ no

(Attach Copy of Fire Department Report, If Available.)

Fire Extinguished by, Staff: _____ Firemen: _____ Others: _____

Method of Fire Extinguishment? _____

Is the Fire Alarm System Restored to Normal Working Condition? ____ Yes ____ No

Is Sprinkler System Restored to Normal Operating Condition? ____ Yes ____ No

Was Fire Reported to Illinois Department of Public Health? ____ Yes ____ No

Estimated Cost of Repairs: \$ _____

(DATE OF REPORT: ____/____/____)

Disqualifying Convictions in Accordance with the
HEALTH CARE WORKER BACKGROUND CHECK ACT
[225 ILCS 46]

- 1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, Sections 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417 and 474));
- 2) Kidnapping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5 and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, Sections 384 to 386));
- 3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1 and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, Sections 252, 252.1 and 252.4));
- 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6 and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, Sections 55, 56, and 56a-60b));
- 5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15 and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, Sections 109, 141, 142, 490, 491));
- 6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 8)
 - A) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, Sections 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));

- B) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
 - C) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [710 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars 18-1 and 18-2)); burglary, residential burglary (Sections 19-1, and 19-3 of the Criminal code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, Sections 84 to 86, 88 and 501));
- 9) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
 - 10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, Sections 48 to 53 and 236 to 238));
 - 11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961 [720 ILCS 5/24-1 and 24-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, Sections 152, 152a, 155, 155a to 158b, 414a to 414c, 414e and 414g));
 - 12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, and 709)); or
 - 13) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).

Further Information from the Illinois Department of Public Health

Bureau of Long-Term Care
 525 W. Jefferson St.
 Springfield, IL 62761
 217-782-2913

General long-term care facility issues

Division of LTC Field Operations
 525 W. Jefferson St.
 Springfield, IL 62761
 217-785-2629

Survey questions and rule interpretations

Division of Licensure and Certification
 525 W. Jefferson St.
 Springfield, IL 62761
 217-782-5180

Violations, licensure, certification

Central Complaint Registry
 525 W. Jefferson St.
 Springfield, IL 62761
 800-252-4343 or 217-785-0321

Complaints, reporting resident abuse/neglect

Education and Training Section
 525 W. Jefferson St.
 Springfield, IL 62761
 217-785-5133
 217/782-3070

Nurse aide training

Nurse Aide Registry

Division of Administrative
 Rules and Procedures
 525 W. Jefferson St.
 Springfield, IL 62761
 217-782-2913

Requests for copies of rules or
 recommendations for rule changes

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